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June 30, 2010

Mr. Corbin R. Davis
Clerk, Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

Re: ADM 2010-08 - Caseflow management guidelines

Dear Mr. Davis:

The Family Law Council, representing the Family Law Section, unanimously voted 18-0 at its May, 2010 meeting to support the proposed Case Management Guidelines, subject to the following recommendations:

- (1) that the deadlines refer to 98% of cases, rather than 100% of cases;
- (2) that the word "thereby" be included in the explanation, as follows: "Trial Courts are directed to report caseflow management statistics and data to enable the State Court Administrative Office to assist trial courts, thereby improving case flow management."
- (3) that the underlined phrase commencing with "notwithstanding" be inserted to read as follows: "The Court does not encourage or condone the practice of trial courts dismissing cases for the sole reason that the case is likely to exceed the guideline. In addition, notwithstanding the maximum period recommended for adjudication set forth below, these guidelines do not supplant judicial discretion if, for good cause shown, a specific case of any type requires that a time line that extends beyond the maximum permitted under these guidelines; and
- (4) that a specific indication of what may constitute "good cause" should be added for clarity and guidance: "Factors constituting good cause for Domestic Relations proceedings may include the complexity of the matter, the circumstances of the parties and children involved, and the degree to which the parties are actively and productively involved in good faith settlement negotiations, interlocutory appeals, and/or alternate dispute resolution."

For your convenience we have attached the specific language contained in the Committee report which considered ADM 2010-08 which was approved by Council. Thank you for your consideration in this matter.


James J. Harrington III
Recording Secretary &
Chair Family Law Council Court Rules/Ethics Committee

Court Rules & Ethics Committee

REPORT TO FAMILY LAW COUNCIL

To: FAMILY LAW COUNCIL
From: James J. Harrington, III
Date: May 1, 2010

A teleconference of the Court Rules and Ethics Committee was held on April 26, 2010 with participants Carlo Martina, Kent Weichmann, Liz Sadowski, Carol Breitmeyer and Jim Harrington.

The final scheduled CR/E teleconference will be on Tuesday, June 1, 2010 at 1:00 p.m. As always, the call in number is: 1 800 270-1153 ext 123930#

A. ADM 2010-08; proposed Admin Order 2010-X [deadline for public comment, July 1, 2010].

The Committee considered both the proposal (Exhibit A) and the Committee Report of November 23, 2009 (Exhibit B). The time deadlines in the Committee Report actually exceeded the guidelines in 2010-X. Likewise significant is the change from the language of the Committee Report which referred to "98%" of the cases being concluded within the deadline period, versus the "100%" figure contained in the 2010-X.

Carlo Martina made excellent suggestions regarding incorporating the 98% language within the body of the proposal in 2010-X, including insertion of the term "may" with respect to examples of "good cause" as well as adding the term "interlocutory appeals".

The Committee unanimously recommends to Council that the Family Law case deadlines in Admin Order 2010-X be the subject of our support subject to:

- (1) The deadlines will refer to 98% of cases; and
- (2) The actual language be amended to include the following **BOLD TYPE** additions:

"Trial courts are directed to report caseload management statistics and data to enable the State Court administrative Office to assist trial courts in improving caseload"

1. 5/1/2010

management. The State Court Administrative Office does not intend to use these data in a punitive fashion or to publish these data for public review.

On further order of the Court, the following time guidelines for case processing are provided as goals for the administration of court caseloads. These are only guidelines and are not intended to supersede procedural requirements in court rules or statutes for specific cases, or to supersede reporting requirements in court rules or statutes. The Court does not encourage or condone the practice of trial courts dismissing cases for the sole reason that the case is likely to exceed the guideline. In addition, notwithstanding the maximum period recommended for adjudication set forth below, these guidelines do not supplant judicial discretion if, for good cause shown, a specific case of any type requires a time line that extends beyond the maximum permitted under these guidelines. *Factors constituting good cause for Domestic Relations Proceedings may include the complexity of the case, the circumstances of the parties and children involved, and the degree to which the parties are actively and productively involved in good faith settlement negotiations, interlocutory appeals, and/or alternative dispute resolution.*

B. Abuse of Subpoenas / Record Production.

The Committee Members discussed concerns raised by Liz Sadowski regarding problems caused by Subpoenas for record production not being served contemporaneously on the other party.

By unanimous recommendation, 4-0 the Committee recommended an Amendment to MCR 2.310(D)(2) requiring that a subpoena be served contemporaneously on the other parties. raised the issue of problems associated with failure of attorneys


- James J. Harrington, III